SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. ....1448.....OF 2005

PETITIONERS :

1. Vishnu Lal Bhensle, S/o Shri Makhan Lal , aged about 42 years, occupation Assistant Teacher, posted at Govt.High School Kuangondi, District Durg (CG).
2. Kanhaiya Lal Vishwakarma S/o Late Shri Kachharu Ram, aged about 40 years, occupation Assistant Teacher,Government Primary School, Magardah,District Durg (CG).
3. Kashi Ram Sahu S/o Ganesh Ram, aged about 50 years, occupation Assistant Teacher, posted at Primary School Pattechuwa.
4. Harish Sahu S/o Sauk Lal Sahu, aged about 40 years, occupation Lecturer, Govt.Boys Higher Secondary School, Charama .
5. Ram Kumar Sahu, S/o Rishi Ram Sahu, aged about 43 years, occupation Assistant Teacher, posted at Government Higher Secondary School Anthagarh.

P.R. No. 1446/05 Dated 07-Oct-05
Presented by Shri ... Dated ...

VERSUS

RESPONDENTS :

01. State of Chhattisgarh, Through Secretary Department of School Education, D.K.S. Building, Raipur (CG).
02. The Secretary, Tribal Welfare Department, D.K.S.Building, Raipur (CG).
03. The Director, Public Instructions, Raipur (CG).
04. The Commissioner, Tribal Welfare Department, Raipur (CG).
05. The Assistant Commissioner, Tribal Development, Durg (CG).
06. District Education Officer, Durg, Tahsil and District Durg (CG).
07. Principal,Govt.Higher Secondary School, Antagarh District Kanker.

RECEIVED-COPY
04-4-07
CLERK to A. G. BILASPUR

(2)

4

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.1448 OF 2005

Petitioners : Vishnu Lal Bhensle and others

versus

Respondents : State of Chhattisgarh and others

Present : Mrs. Renu Kochar, counsel for the petitioners.
Mr. Arun Sao, Government Advocate for the State/ respondents.

ORDER
(Passed on 10th of November, 2006)

Learned counsel appearing for the petitioners submits that petitioner No.3 be permitted to withdraw his petition with liberty to file a fresh petition as he is claiming relief of grant of two advance increments not on the basis of B.Ed./B.T.I. Certificates but on the basis of D.Ed. Certificate. Learned counsel for the petitioners further submits that the other petitioners are claiming the relief of grant of two advance increments on the basis of B.Ed. Certificate.

2. Accordingly, the writ petition, so far as it relates to petitioner No.3, stands dismissed as withdrawn with the above-stated liberty. No order as to costs.

3. Petitioners No.1, 2, 4 and 5 are working as Lecturer/Assistant Teacher in Government Schools. In the course of

39

their service as Lecturer/Assistant Teacher, they have obtained B.Ed. Certificate at their own expenses before 1-3-1999.

4. According to learned counsel for the petitioners, petitioners No.1, 2, 4 and 5 are entitled to two advance increments in view of the decision of this Court in the case of *Yashwant Kumar Bharadwaj vs. Municipal Corporation, Durg and another*[1], wherein it has been held that the teachers, having obtained B.Ed., M.Ed., B.T.I. Certificates, at their own expenses, are covered by the circular dated 24-12-1998 issued by the State Government of Madhya Pradesh.

5. Further, in the matter of *Smt. Manorama Shrivastava vs. State of M.P. and others*[2], the Madhya Pradesh Administrative Tribunal, Gwalior Bench, while considering the circular dated 1-3-1999, wherein it is provided that the Assistant Teachers, who have acquired B.Ed. Degree at their own cost between 23-10-1964 and 7-5-1973 shall be entitled to two advance increments, relied on decision in the case of *Rakesh Kumar Shrivastava vs. State of M.P. and others* passed in Original Application No.1632 of 1999, decided on 12-10-1999, wherein it is observed that the circular dated 1-3-1999 cannot be made applicable retrospectively. Thus, a Teacher, may be Assistant Teacher, who has obtained B.Ed. Degree before 1-3-1999 is entitled to two advance increments.

6. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No.1999 of 2000 filed against the order of the Tribunal. Therefore, the direction to

the effect that the circular dated 1-3-1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./B.T.I. Certificates before 1-3-1999. It is further substantiated by a circular dated 17-10-2003 issued by the present State of Madhya Pradesh, wherein the circular clearly states about the decision of the Hon'ble Supreme Court.

7. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case of petitioners No.1, 2, 4 and 5 are squarely covered by the decision of this Court in the case of *Yashwant Kumar Bharadwaj* (Supra), to which learned counsel appearing for the respondents/State fairly concedes and agrees with the averments made by learned counsel appearing for the petitioners.

8. Accordingly, the writ petition, so far as it relates to petitioners No.1, 2, 4 and 5, is allowed in terms of the decision of this Court in the matter of *Yashwant Kumar Bharadwaj* (Supra), subject to verification of the fact as to whether petitioners No.1, 2, 4 and 5 have acquired B.Ed. Certificate at their own expenses as per the circulars dated 24-12-1998 and 1-3-1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

---

1 2006 (II) MPJR-CG 96

2 2000 (1) M.P.L.S.R. 136

Gopal